

P R E S S R E L E A S E

Tennessee Association of Criminal Defense Lawyers March 12, 2020

As Tennesseans brace for the growing spread of the COVID-19 virus, expert opinion indicates that we face weeks, if not months, of infection and illness. Our governor has declared a state of emergency. One segment of our population is particularly at risk of infection: the law enforcement officers employed in our local jails and state prisons and the tens of thousands of men and women who are confined there. The Tennessee Association of Criminal Defense Lawyers (TACDL) calls on our state and community leaders to take action to prepare for and address this significant health risk.

Incarcerated persons are particularly susceptible to this airborne virus because of communal confinement in close quarters and because many facilities use recycled air. Jailers must work in this environment. Many prisoners in our jails and prisons are vulnerable to the most severe symptoms of the virus due to their age and underlying health issues. Holding them in a “cruise ship” environment, where they will face repeated exposure to the virus, increases the likelihood of severe illness or death and will dramatically increase the costs to our state and communities for treating these persons. Once the disease enters the incarcerated population, it is likely to spread quickly among inmates and correction officers.

Because a significant number of our jail and prison population is comprised of persons who have not yet been convicted but are detained pending trial or disposition of their case, there are opportunities to temporarily reduce this population until this health crisis has passed. Therefore, to minimize the spread of the COVID-19 virus and its impact, TACDL proposes the following six (6) steps to be implemented by our local and state officials to reduce the number of our pre-trial detainees, if they have not been implemented already:

1. Begin screening all jail or prison intakes;
2. Devise a system for quarantining those infected with the virus, preferably in a facility that does not recycle air to the rest of the population;

3. Liberally grant release to pre-trial detainees charged with non-violent offenses;
4. Release those detainees that are the most vulnerable to the harshest symptoms of the virus;
5. Pause the practice of holding arrestees without bond for violations of probation, particularly when no new offense has been committed; and
6. Increase the use of citations in lieu of arrest when permitted.

In addition, TACDL calls on judges, prosecutors, and defense lawyers to work to resolve charges upon “time served” whenever possible, and to otherwise give great weight to sentencing alternatives other than incarceration. Should the COVID-19 virus spread in our jails and prisons, a term of imprisonment may very well become “cruel and unusual” in violation of our state and federal constitutions.

Finally, TACDL praises local and state law enforcement officials, district attorney generals, and judges for their proactive approach to this crisis and for the steps they have already taken to protect this vulnerable segment of our population.